



## COVERSHEET

<b>Minister</b>	Hon Dr Megan Woods	<b>Portfolio</b>	Energy and Resources
<b>Title of Cabinet paper</b>	Proposed Energy and Emissions Reporting Scheme	<b>Date to be published</b>	29 September 2023

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
August 2023	Proposed Energy and Emissions Reporting Scheme	Office of the Minister of Energy and Resources
2 August 2023	Proposed Energy and Emissions Reporting Scheme  DEV-32-MIN-0159	Cabinet Office
17 July 2023	Energy and Emissions Reporting Scheme	Ministry of Business, Innovation and Employment

### Information redacted

### YES / NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of Confidential advice to Government.



# Cabinet Economic Development Committee

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### Proposed Energy and Emissions Reporting Scheme

**Portfolio**                      **Energy and Resources**

On 2 August 2023, the Cabinet Economic Development Committee:

#### Context

- 1        **noted** that the lack of consistent, accessible, and granular data available to government and the public on the energy use and emissions from New Zealand's large energy users affects decision making and market coordination;
- 2        **noted** that Action 11.4.1 of the Emissions Reduction Plan includes the commitment to develop a mandatory energy and emissions reporting scheme for large energy users;
- 3        **noted** that the proposed scheme will enable government to develop robust policy to support emissions reduction and improve the coordination of energy use and low-emissions energy supply;

#### Energy and Emissions Reporting Scheme

- 4        **agreed** to prepare a new Bill (the Bill) to establish an energy and emissions reporting scheme (EERS);
- 5        **agreed** that large emitters, defined as entities with annual entity-level gross emissions greater than 2000 tonnes of carbon dioxide equivalent (2kt CO<sub>2</sub>-e) from their stationary energy use and purchased energy, will be required to report under this scheme;
- 6        **agreed** that the Bill empowers the relevant Minister to provide exemptions for certain entities, or for entities to be exempted from certain EERS reporting requirements, if the Minister is satisfied that those entities are already reporting that information to another government body that will be shared in the EERS register;
- 7        **agreed** that reporting entities be required to report information on their emissions and energy use to the Registrar that shows their entity-level and site-specific annual energy use by fuel and end-use;
- 8        **agreed** that the Bill include the ability to make secondary legislation that specifies the details of the information that entities are required to report;
- 9        **agreed** that the Bill empowers the Registrar to prescribe the manner and form in which the information is to be provided;

- 10 **noted** that only the following information will be publicly available:
- 10.1 entity-level annual energy use by fuel and end-use;
  - 10.2 entity-level annual greenhouse gas emissions;
- 11 **agreed** that reporting requirements will apply to financial years starting on or after the first day of the first calendar year following enactment;
- 12 **agreed** that from financial years commencing on or after 12 months following when the reporting requirements come into force, reports must be independently assured;
- 13 **agreed** that the legislation enable the establishment of a EERS register and the appointment of an employee of the Ministry of Business, Innovation and Employment (MBIE) as the Registrar;
- 14 **agreed** that the Registrar and MBIE can share energy use and emissions information provided by reporting entities within MBIE and with other government departments and Crown Entities, with appropriate data sharing protocols to ensure commercially sensitive information is not publicly released;
- 15 **noted** that the Minister of Energy and Resources (the Minister) considers that the Official Information Act 1982 adequately protects the potential commercial sensitivity of information provided to MBIE by the reporting entities;

### Compliance and enforcement

- 16 **agreed** that the Bill provides the Chief Executive of MBIE (the Chief Executive) with powers to promote compliance:
- 16.1 monitor and investigate compliance with the Act, including requiring entities to produce relevant documents for inspection;
  - 16.2 issue corrective notices to a reporting entity, which will require the entity to remedy any non-compliance within a specified period;
  - 16.3 seek civil pecuniary penalties should non-compliance continue following issuance of a corrective notice, with the maximum penalties set at:
    - 16.3.1 \$20,000 for an individual and \$60,000 for a body corporate for failing without reasonable excuse to register an energy and emissions report;
    - 16.3.2 \$20,000 for an individual and \$60,000 for a body corporate for intentionally providing incomplete, false or misleading information required in an energy and emissions report;
    - 16.3.3 \$100,000 for an individual and \$300,000 for a body corporate for failing without reasonable excuse to independently assure an energy and emissions report;
    - 16.3.4 \$100,000 for an individual and \$300,000 for a body corporate for intentionally providing incomplete, false or misleading information in relation to independent assurance;

- 17 **agreed** that the power requiring entities to produce relevant documents for inspection extends to entities that have not self-identified or registered into the scheme, but where the Chief Executive has reasonable grounds to suspect the entity may meet the reporting threshold;
- 18 **authorised** the Minister and the Minister of Justice to make policy decisions on a compliance and enforcement regime for the entities captured in paragraph 17 above, to include in the exposure draft of the Bill;
- 19 **agreed** that the Chief Executive can only undertake compliance and enforcement actions relating to reports for financial years commencing on or after 12 months following when the reporting requirements come into force;

### Three-year review

- 20 **agreed** that the scope, threshold, and administration (including funding mechanisms) of the regime will be reviewed within three years of commencement;
- 21 **noted** that transport entities will generally not be captured by the scheme (unless they meet the proposed threshold based on stationary energy use);
- 22 **noted** that the Minister intends to consider expanding the scheme to transport entities and other mobile energy users as part of the first review of the regime;
- 23 **noted** that the scope of the regime may expand in future years, subject to appropriate consultation;

### Funding implications

- 24 **noted** that Budget 2022 included funding for MBIE to set up and administer the scheme in the appropriation *Energy and Resources: Monitoring and Enforcement of an Energy and Emissions Reporting Scheme for Large Energy Users*, as part of the *Funding Further Decarbonisation of Process Heat and Implementation of Supporting Policies* initiative;
- 25 **noted** that the EERS will be implemented later than the original timeline due to focus on other priorities;

26 Confidential advice to Government

27 Confidential advice to Government

### Legislative implications

- 28 **noted** that new primary and secondary legislation are required to give effect to the decisions under DEV-23-MIN-0159;
- 29 **noted** that the legislative decisions in the paper under DEV-23-SUB-0159 are enabling and will require further public consultation and the development of secondary legislation to operationalise the scheme;

- 30 Confidential advice to Government
- 31 **invited** the Minister of Energy and Resources to issue drafting instructions to PCO to give effect to the policy decisions in the paper under DEV-23-SUB-0159;
- 32 **authorised** the Minister to share the draft Bill with the Energy Efficiency and Conservation Authority and Statistics New Zealand;
- 33 **authorised** the Minister to make decisions on any minor or technical changes consistent with the policy intent;
- 34 **authorised** the Minister to make decisions consistent with the decisions in the paper under DEV-23-SUB-0159 on any issues which arise during the drafting process;
- 35 **authorised** the Minister of Energy and Resources to approve and release an exposure draft Bill and related commentary for public consultation;
- 36 **agreed** that the legislation drafted to give effect to the above policy decisions will bind the Crown.

Jenny Vickers  
Committee Secretary

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**Present:**

Hon Grant Robertson (Chair)  
Hon Dr Megan Woods  
Hon Damien O'Connor  
Hon Peeni Henare  
Hon Ginny Andersen  
Hon Barbara Edmonds  
Hon Dr Duncan Webb  
Hon Rachel Brooking

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV